

EOD 2-15-01



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U.S. DISTRICT COURT

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TX EASTERN-BEAUMONT

BY Brenda Carter

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION**

CHARLES THURMOND, et al
On Behalf of Themselves and All
Others Similarly Situated,

v.

COMPAQ COMPUTER CORPORATION,
Defendant.

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§ 1:99CV0711 (TH/WCR)
§ JURY
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ORDER

Before the Court are several motions heard before the Honorable Wendell C. Radford on February 8, 2001. Having reviewed the submissions, arguments of counsel and the record, the Court finds as follows:

1. *Defendant Compaq Computer Corporation's Motion to Exclude Testimony of Plaintiff's Technical Experts Udo W. Pooch and Larry R. Leibrock [416] and Defendant Compaq Computer Corporation's Motion to Preclude Testimony of Plaintiff's Economic Experts [417] shall be **CARRIED** through the class certification hearing.*
2. *Defendant Compaq Corporation's Motion to Preclude Testimony of John C. Coffee, Samuel Issaracharoff, Arthur Miller, Geoffrey P. Miller, Russell Weintraub, and James J. White [417] is, in all things, **GRANTED**.¹*
415
3. *Plaintiffs' Motion to Unseal Record on Certification, Injunction and Dispositive*

¹Opinion and Memorandum to follow, incorporating Defendant's motions [416] and [417].

Motions [406] is **DENIED**. Pursuant to the Protective Order entered in this case, there is an established procedure for challenging the confidentiality of any document sealed in this case.

4. *Defendant Compaq Computer Corporation's Motion to Compel Production of a Full and Complete Privilege Log* [362] is **GRANTED**.
5. *Defendant Compaq Computer Corporation's Motion to Compel Responses to Interrogatories* [367] is **GRANTED**.
6. *Defendant Compaq Computer Corporation's Motion for Protective Order and to Compel Inadvertently Produced Privileged Documents* [369] is **GRANTED** in part. All documents except bates number CPQ 01307765-768, CPQ 01307769-771, CPQ 01307772-774, CPQ 01307819-821, CPQ 01307787-788, CPQ 01307797-799, CPQ 01307811-812, and CPQ 01307843-844 shall be returned immediately.
7. *Plaintiffs' Motion to Reserve Daubert Challenges* [407] is **DENIED** as **MOOT**. Challenges to trial testimony shall be considered following the Court's order on class certification.
8. *Defendant Compaq Computer Corporation's Motion for In Camera Review* [256] is **GRANTED**.²
9. *Defendant Compaq Computer Corporation's Motion to Compel Plaintiffs' Responses to Defendant's Third Set of Interrogatories* [409] is **DENIED**.
10. *Defendant Compaq Computer Corporation's Supplement to Motion to Compel Production Requesting the Inspection of Plaintiffs' Computers* [363] is **GRANTED**. Plaintiffs shall make available Plaintiffs' computers for non-destructive testing by February 21, 2001. Defendants shall complete non-destructive testing of Plaintiff's computers by March 5, 2001. Any arrangements for conducting non-destructive testing shall be resolved by the parties no later than February 19, 2001.³ ALL NON-DESTRUCTIVE TESTING OF PLAINTIFFS' COMPUTERS IS SUBJECT TO THE PROTECTIVE ORDER ENTERED IN THIS CASE.


²Defendant's motion [256] was granted on September 5, 2000, following a discovery hearing.

³Understand, the Court can conceive of several methods that would adequately address the concerns of the parties. However, the Court has faith in the parties' ability to identify the "most efficient" means of conducting non-destructive testing.

11. *Defendant Compaq Computer Corporation's Motion to Compel the Production of Documents* [317] is **DENIED** in part. Plaintiffs shall produce the documents referenced in paragraph 4 of the correspondence between Gary Reger and David Beck dated July 17, 2000. Of course, production of such box is subject to the Protective Order entered in this case.
12. *Plaintiffs' Motion for Leave to Amend Their Fifth Amended Complaint* [408] is **DENIED**.

SO ORDERED.

SIGNED this 13th day of February, 2001.


THAD HEARTFIELD
UNITED STATES DISTRICT JUDGE